



Bernard C. "Jack" Young
Mayor

BALTIMORE POLICE DEPARTMENT



Michael S. Harrison
Police Commissioner

June 20, 2019

Caroline Haskins
MuckRock News
DEPT MR 63200
411 A Highland Avenue
Somerville, MA 02144

Re: MPIA Request 18 1342

Dear Ms. Haskins,

On November 1, 2018 you submitted a request for public records to the Baltimore Police Department's ("BPD") Document Compliance Unit ("DCU"), for the enumerated information below. The Maryland Public Information Act ("PIA"), Annotated Code of Maryland, General Provisions Article, § 4-101, *et seq.* governs your request. BPD's response for each enumerated portion of your request is noted immediate below.

1. Any software and algorithms developed for the implementation of the ShotSpotter program.

Response: BPD has not located any responsive documents to your request. Nonetheless, to the extent BPD may be in possession of such information, it may not be disclosed, as it is considered confidential pursuant to PIA § 4-335 as evidenced and explained by the City and BPD's agreements with ShotSpotter, Inc. ("SST") enclosed. *See* PIA § 4-335 ("A custodian shall deny inspection of the part of a public record that contains any of the following information provided by or obtained from any person or governmental unit: (1) a trade secret; (2) confidential commercial information; (3) confidential financial information; or (4) confidential geological or geophysical information."); *see also Mezu v. Morgan State University*, 269 F.R.D. 565 (2010) (Maryland PIA (MPIA) is modeled on the federal Freedom of Information Act (FOIA), and therefore decisions interpreting the federal statute are

persuasive in interpreting counterpart provisions of the MPIA); MPIA Manual 14th ed., October 2015, Pg. 3-21 (“Under FOIA, a ‘trade secret’ is considered a ‘secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.’”) (quoting *Prince George’s County v. Washington Post Co.*, 149 Md. App. 289, 312, n.17 (2003) (citing *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983))); MPIA Manual 14th ed., October 2015, Pg. 3-21 (“defining a ‘trade secret’ as ‘an unpatented secret formula or process known only to certain individuals using it in compounding some article of trade having commercial value. Secrecy is the essential element. Thus, [a] trade secret is something known to only one or a few, kept from the general public, and not susceptible of general knowledge. If the principles incorporated in a device are known to the industry, there is no trade secret’”) (quoting 63 *Opinions of the Attorney General* at 359); MPIA Manual 14th ed., October 2015, Pg. 3-22 (“proprietary cost and engineering data voluntarily provided by switch vendors to telecommunications companies under nondisclosure agreements were confidential under FOIA”) (citing *Allnet Comm. Services, Inc. v. FCC*, 800 F. Supp. 984 (D.D.C. 1992)).

2. All instructional materials, presentations and presentation materials and other guidance on the use of “the software”.

Response: BPD has not located any responsive documents to your request. Nonetheless, to the extent BPD may be in possession of such information, it may not be disclosed, as it is considered confidential pursuant to PIA § 4-335 as evidenced and explained by the City and BPD’s agreements with SST enclosed. See citations and explanation in Response #1 above.

3. A copy of any privacy impact assessments, use policies, standard operating procedures, data retention policies, legal opinions, warranties, non-disclosure agreements, contracts, liability waivers, insurance agreements, Request for Proposals, Responses to Requests for Proposals, Memorandum of Understanding, Letters of Interest, usage policies, or informal agreements that reference “the software” or otherwise guide its use or the relationship between this agency and the provider or developer of the software.

Response: The following documents (.pdf) are provided as responsive to your request: “BOE Approved ShotSpotter Flex Service Agreement;” “ShotSpotter Data Sharing Agreement;” and “BOE Approved Bloomberg Agreement.”

Additionally, a copy of the draft policy on ShotSpotter (Policy #1006), provided by the Best Practices Division of the BPD, is attached. Please note, this draft policy is also available online for immediate download, free of charge here: <https://www.baltimorepolice.org/1006-draft-shotspotter-gunshot-detection-service>.

4. A copy of any funding opportunity announcements, grants applications and grantor status/progress reports, reports to legislative bodies, annual reports that mention the use of the Software, as well as audit records, including but not limited to security audits of the software, misuse reports, and reports to oversight bodies.

Response: Please find "BOE Approved ShotSpotter Flex Service Agreement" and "BOE Approved Bloomberg Agreement" attached (also referenced in Response #3 above).

5. A copy of any validation studies conducted with respect to the program or with respect to any software or algorithms used in connection with the program, and a copy of any records pertaining to inquiries for the need of validation studies, or discussion of potential or actual validation studies.

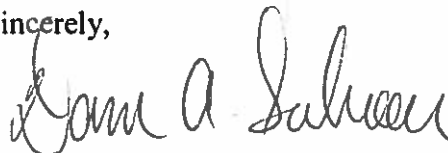
Response: Please find "ShotSpotter Data Sharing Agreement" attached (also referenced in Response #3 above).

6. For the aspects of the software that require an input, a copy of the five most recent sets of data that were used for input, as well as the five most recent outputs of the software, in whatever their native format is.

Response: BPD does not have any responsive materials. To the extent BPD may be in possession of such information, it may not be disclosed, as it is considered confidential pursuant to PIA § 4-335 as evidenced and explained by the City and BPD's agreements with SST enclosed. See citations and explanation in Response #1 above.

The PIA, Annotated Code of Maryland, General Provisions Article, § 4-206 provides that the official custodian may charge "reasonable fees" for copies. However, the fees have been waived. You have the right under PIA § 4-1B-04 to contact the Public Access Ombudsman to mediate any dispute(s) you may have with this response. You may also, contest this response by filing a complaint for Judicial Review in Circuit Court pursuant to PIA § 4-362. Please refer to MPIA tracking # 18 1342 in any subsequent correspondence pertaining to this matter.

Sincerely,



Dana Abdul Saboor
Paralegal
Document Compliance Unit
Baltimore City Police Department